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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
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08/478,192 06/07/95 JENDERSEE

B P-1906.01

EXAMINER
LEWIS, W

33M1/0927

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ART UNIT	PAPER NUMBER
	3

3309

DATE MAILED:

09/27/96

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS**OFFICE ACTION SUMMARY** Responsive to communication(s) filed on 07 JULY 1995 This action is FINAL. Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 30 (thirty) month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims Claim(s) 1-15 is/are pending in the application. Of the above, claim(s) _____ is/are withdrawn from consideration. Claim(s) _____ is/are allowed. Claim(s) _____ is/are rejected. Claim(s) _____ is/are objected to. Claims 1-15 are subject to restriction or election requirement.**Application Papers** See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948. The drawing(s) filed on _____ is/are objected to by the Examiner. The proposed drawing correction, filed on _____ is approved disapproved. The specification is objected to by the Examiner. The oath or declaration is objected to by the Examiner.**Priority under 35 U.S.C. § 119** Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d). All Some* None of the CERTIFIED copies of the priority documents have been received. received in Application No. (Series Code/Serial Number) _____ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

 Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).**Attachment(s)** Notice of Reference Cited, PTO-892 Information Disclosure Statement(s), PTO-1449, Paper No(s). _____ Interview Summary, PTO-413 Notice of Draftsperson's Patent Drawing Review, PTO-948 Notice of Informal Patent Application, PTO-152

- SEE OFFICE ACTION ON THE FOLLOWING PAGES -

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Part III DETAILED ACTION

Election/Restriction

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

Group I. Claims 1-7 and 12, drawn to the device and method of use, classified in Class 606, subclass 198.

Group II. Claims 8-11, drawn to the method of making the device, classified in Class 72, subclass 200+.

Group III. Claims 13-15, drawn to the balloon, classified in Class 604, subclass 96+.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions II and I are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (M.P.E.P. § 806.05(f)). In the instant case the product can be made by injection molding.

3. Inventions I and III are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for

patentability, and (2) that the subcombination has utility by itself or in other combinations. (M.P.E.P. § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the device can utilize a balloon without wings. The subcombination has separate utility such as performing angioplasty.

4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

5. A telephone call was made to Janet Castaneda on 25 Sept. 1996 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed.

6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 C.F.R. § 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently-filed petition

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under 37 C.F.R. § 1.48(b) and by the fee required under 37 C.F.R. § 1.17(h).

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to W. Lewis whose telephone number is (703) 308-0060.


WILLIAM LEWIS
PATENT EXAMINER
GROUP 3300

WL

September 26, 1996